

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Joseph Anthony Donner,

Debtor(s).

Bankr. No. 03-48065-NCD

Chapter 7 Case

**NOTICE OF HEARING AND
VERIFIED MOTION REGARDING
OBJECTION TO ALLOWANCE OF
CLAIM**

1. Julia A. Christians, trustee of the above-captioned estate, moves the Court for the relief requested below and gives notice of hearing herewith.

2. The Court will hold a hearing on this motion on October 27, 2004, at 10:30 a.m., in Courtroom No. 7 West, at U.S. Courthouse, 300 South Fourth Street, Minneapolis, Minnesota 55415, or as soon thereafter as counsel can be heard. Any response to this motion must be filed and delivered not later than October 20, 2004, which is seven days before the time set for the hearing, or filed and served by mail not later than October 15, 2004, which is ten days before the time set for the hearing. **IF NO RESPONSE IS TIMELY SERVED AND FILED, THE COURT MAY GRANT THE RELIEF REQUESTED WITHOUT A HEARING.**

3. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this case as a Chapter 7 case was filed on November 18, 2003, and the case is now pending before this Court.

4. This motion arises under 11 U.S.C. § 502 and Bankruptcy Rule 3007. This motion is filed under Bankruptcy Rule 9014 and Local Rules 3007-1 and 9013-1 through 9019-1(d). Movant requests relief with respect to the following objection to allowance of claim. A

true and correct copy of said claim is attached to the Motion as filed with the Court. A complete copy of this Motion and attached claim may be viewed at the Bankruptcy Court's web site at www.mnb.uscourts.gov.

5. The following claimant has filed a Proof of Claim in the above-captioned case.

Claimant	Date Filed	Amount	Type of Claim	Claim No.
Capitol One F.S.B.	07/26/04	\$1,026.42	Unsecured	4

6. The Trustee objects to the claim identified above on the basis that the attachments to the Proof of Claim indicate the claim is the obligation of Small Business Resource and not the Debtor personally. The Trustee made written demand upon Claimant for withdrawal of its claim as not being an obligation owed by the Debtor in this case or, alternatively, for documentation supporting the assertion of personal liability. Claimant failed to respond.

7. Except to the extent Claimant shows evidence supporting an assertion of personal liability, said claim should be disallowed.

WHEREFORE, the Trustee respectfully moves the Court for an Order that disallows the aforesaid claim, and for such other relief as may be just and equitable.

LAPP, LIBRA, THOMSON, STOEGBNER
& PUSCH, CHARTERED

Dated: September 21, 2004

/e/ Julia A. Christians
Julia A. Christians (#157867)
One Financial Plaza, Suite 2500
120 South Sixth Street
Minneapolis, MN 55402
612/ 338-5815

Attorneys for Trustee

VERIFICATION

I, Julia A. Christians, the moving party named in the foregoing Notice of Hearing and Motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information, and belief.


Executed on September 21, 2004

/e/ Julia A. Christians
Julia A. Christians, Trustee

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United States Bankruptcy Court DISTRICT _____ District of MN		PROOF OF CLAIM	
In re (Name of Debtor) SMALL BUSINESS RESOURCE JOSEPH A DONNER		Case Number 0348065NCD	
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.			
Name of Creditor <i>(The person or other entity to whom the debtor owes money or property)</i> CAPITAL ONE F.S.B		<div style="text-align: right; font-size: 2em; margin-bottom: 10px;">4</div> <div style="text-align: right; font-size: 0.8em; margin-top: 10px;"> THIS SPACE IS FOR COURT USE ONLY </div>	
Name and Address Where Notices Should be Sent CAPITAL ONE F.S.B P.O. Box 85167 Richmond, VA 23285			
Telephone No. 1-800-846-9966			
ACCOUNT OR OTHER NUMBER BY WHICH CREDITOR IDENTIFIES DEBTOR: 4791241549961881		Check here if this claim <input type="checkbox"/> replaces a previously filed claim, dated: _____ <input type="checkbox"/> amends	
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> 1. BASIS FOR CLAIM <input type="checkbox"/> Goods sold <input type="checkbox"/> Services performed <input checked="" type="checkbox"/> Money loaned <input type="checkbox"/> Personal injury/wrongful death <input type="checkbox"/> Taxes <input type="checkbox"/> Other (Describe briefly) </div> <div style="width: 50%;"> <input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(a) <input type="checkbox"/> Wages, salaries, and compensation (Fill out below) Your social security number _____ Unpaid compensation for services performed from _____ to _____ <div style="text-align: center;">(date) (date)</div> </div> </div>			
2. DATE DEBT WAS INCURRED Account Opened: 04/01/1999 C/O Date: 12/09/2002		3. IF COURT JUDGMENT, DATE OBTAINED:	
4. CLASSIFICATION OF CLAIM. Under the Bankruptcy Code all claims are classified as one or more of the following: (1) Unsecured Nonpriority, (2) Unsecured Priority, (3) Secured. It is possible for part of a claim to be in one category and part in another. CHECK THE APPROPRIATE BOX OR BOXES that best describe your claim and STATE THE AMOUNT OF THE CLAIM AT TIME CASE FILED.			
<input type="checkbox"/> SECURED CLAIM \$ _____ Attach evidence of perfection of security interest Brief Description of Collateral: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other (Describe briefly)		<input type="checkbox"/> UNSECURED PRIORITY CLAIM \$ _____ Specify the priority of the claim. <input type="checkbox"/> Wages, salaries, or commission (up to \$4000), earned not more than 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3) <input type="checkbox"/> Contribution to an employee benefit plan - 11 U.S.C. § 507(a)(4) <input type="checkbox"/> Up to \$1800 of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6) <input type="checkbox"/> Taxes or penalties of governmental units - 11 U.S.C. § 507(a)(7) <input type="checkbox"/> Other - Specify applicable paragraph or 11 U.S.C. § 507 (a) _____	
Amount of arrearage and other charges at time case filed included in secured claim above, if any \$ _____ <input checked="" type="checkbox"/> UNSECURED NONPRIORITY CLAIM \$ <u>1026.42</u> A claim is unsecured if there is no collateral or lien on property of the debtor securing the claim or to the extent that the value of such property is less than the amount of the claim.			
5. TOTAL AMOUNT OF CLAIM AT TIME CASE FILED: \$ <u>1026.42</u> (Unsecured) \$ _____ (Secured) \$ _____ (Priority)		<div style="border: 1px solid black; padding: 5px; display: inline-block;"> \$ 1026.42 (Total) </div>	
<input type="checkbox"/> Check this box if claim includes charges in addition to the principal amount of the claim. Attach itemized statement of all additional charges.			
6. CREDITS AND SETOFFS: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim. In filing this claim, claimant has deducted all amounts that claimant owes to debtor.		THIS SPACE IS FOR COURT USE ONLY	
7. SUPPORTING DOCUMENTS: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, or evidence of security interests. If the documents are not available, explain. If the documents are voluminous, attach a summary.			
8. TIME-STAMPED COPY: To receive an acknowledgement of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.			
Date 07/19/2004	Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any) <div style="text-align: center; margin-top: 20px;"> T. Metacarpa, Agent </div>		

Penalty for presenting fraudulent claim: Fine up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.



Case #: 0348065NCD
DISTRICT OF MN2
300 S. 4TH ST RM 301
MINNEAPOLIS, MN 55415

Primary Debtor: SMALL BUSINESS RESOURCE
JOSEPH A DONNER
Account #: 4791241549961881

CAPITAL ONE F.S.B

Account Summary for Proof of Claim (See next page)

TOTAL CHARGES

Principal:	561.77
Interest & Fees:	464.65
Balance as of Petition Date:	1026.42

"Principal" and "Interest and Fees" are pre-petition totals.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Chapter 7

Joseph Anthony Donner,

BKY. No. 03-48065-NCD

Debtor(s)

UNSWORN CERTIFICATE OF SERVICE

I, Sarah L. Fortin, declare under penalty of perjury that on September 21, 2004, I mailed copies of the attached **Notice of Hearing and Verified Motion Regarding Objection to Allowance of Claim and proposed Order** by first class mail postage prepaid to each entity named below at the address stated below for each entity:

Joseph Anthony Donner 6903 Autumn Terrace Eden Prairie, MN 55346	Michael K. Hoverson, Esq. Michael K. Hoverson and Associates 333 Washington Avenue North, Suite 308 Minneapolis, MN 55401
United States Trustee 1015 U.S. Courthouse 300 South Fourth Street Minneapolis, MN 55415	Capitol One F.S.B. Attn: T. Metacarpa, Agent P O Box 85167 Richmond, VA 23285
<u>VIA CERTIFIED MAIL –</u> <u>RETURN RECEIPT REQUESTED</u> Capitol One F.S.B. Attn: T. Metacarpa, Agent P O Box 85167 Richmond, VA 23285	

Executed on: September 21, 2004

/e/ Sarah L. Fortin
Sarah L. Fortin, Legal Secretary
Lapp, Libra, Thomson, Stoeber &
Pusch, Chartered
120 South Sixth Street, Suite 2500
Minneapolis, MN 55402
612/338-5815

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY Case No. 03-48065-NCD
Chapter 7 Case

Joseph Anthony Donner,

Debtor.

ORDER REGARDING CLAIM

At Minneapolis, Minnesota this 27th day of October, 2004.

This matter came on for hearing before the undersigned Bankruptcy Judge on the 27th day of October, 2004, on the Trustee's objection to allowance of claim. Appearances, if any, were as noted in the record.

Upon the Motion of the Trustee, and the documents of record herein, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED:

Claim No. 4 is disallowed.

Dated: _____, 2004

Nancy C. Dreher
United States Bankruptcy Judge